

Delineation of geographical area involving minority communities in Brazil in order to protect the Geographical Indication

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Abstracts

The Brazilian Institute of Geography and Statistics - IBGE which is one of the institutions of the Federal Government of Brazil a reference regarding the cartographic representation of consistent geospatial information generated by other institutions, and the National Institute of Industrial Property – INPI which is the institution responsible the protection of industrial rights in the country, have partnered with the goal of technical cooperation, scientific, educational and cultural planning and execution of joint standardization, support spatial analysis based on research involving potential records Geographical Indication - (IG) little known or unknown at international levels, areas explained in documents under analysis in INPI for the record and for the registration and inclusion of GIs in protected areas such as National Spatial Data Infrastructure - IBGE what INDE enable the dissemination of information of GIs protected in Brazil and abroad.

In the middle of the-2008, the IBGE found that some cartographic representations of geometric boundaries defining certain areas of geographical indications referred by holders of GIs and registered with the INPI contained some fundamental inconsistencies in the lease of the stroke in the territory to be protected, and overlaps with areas environmental protection, indigenous reserves and other protected areas by Brazilian law. Verification of the area enclosed and protected by Geographical Indication and areas protected by national legislation in force was made possible by the IBGE with the intersection of multiple layers of geospatial information INDE fact that this signaled the potential for research in the delimitation of geographical area for protection Geographical Indication involving minority

communities in Brazil to social and economic inclusion of the citizens of these communities in Brazil.

1. INTELLECTUAL PROPERTY

Conceptually the Intellectual Property (IP) can be understood as restricted to types of property resulting from the creation of the human spirit.

The International Convention Establishing the WIPO (World Intellectual Property Organisation) not set formally Intellectual Property, preferring report containing a list of the various ways that can be understood as characteristically linked the issue of IP, namely:

"literary, artistic and scientific works; interpretations of performers and executions of performing artists, phonograms and broadcasts; inventions in all fields of human endeavor, scientific discoveries, the industrial designs, the trademarks, industrial, commercial and service as well as to commercial firms and trade names; protection against unfair competition and "all other rights resulting from intellectual activity in the industrial, scientific, literary and artistic." (Convention establishing the Organization World Intellectual Property Organisation, Stockholm July 14, 1967, Article 2, § viii)

Several intellectual property assets are entitled to protection in Brazil may be cited as follows: Copyright and related cultivars and, comprising the rights of industrial property: patents, trademarks, software, integrated circuit topography, industrial design, utility model and the geographical indication.

This way this is a significant importance to protection and management of IP protection instruments to strategically aimed at the ultimate goal of this protection in certain cases. It is a robust tool to promote social inclusion primarily economic communities who hold local knowledge passed on from generation to generation, in terms of agricultural production methods or those related to art and culture in general.

Among the types of IP within the context of Industrial Property, assumes an increasingly significant importance since the first decade of the 2000s in Brazil that related to Geographical Indication (GI). Below it will be explained on the main aspects related to GI's in the country.

2. GEOGRAPHICAL INDICATIONS

An important aspect relating to geographic names, which involves economic aspects related to local clusters are geographical indications.

By geographical indication means the legal form of protection that is afforded to a particular product or service offered or when produced in a certain place, with

unique climate, seasonality and crop productivity itself, therefore it is the identification of a product or service as originating from a particular place when the reputation or characteristics and qualities that can be linked directly to this source. This set of events can generate these goods are products or services that can enable the development of this origin and supporting documentation, which can ensure the identification and control of unique features.

These peculiar features certainly will make these products gain a differentiated condition, both with respect to (refer) your quality, as to the value assigned by the market competitors.

The primary objective is then to distinguish the origin of a product or service through differentiated quality and / or excellence in production of the same, through the fame of a particular geographic region unique.

In Brazil, the law regulating the protection of GIs is the Industrial Property Law - N 9.279 published in 05/14/1996 in articles 178-182. The law states cited in its articles 177 and 178 respectively, that geographical indications are classified into two espécies, namely:

a) Indication of Origin-IP;

b) Designation of Origin-DO, as the following transcript:

"Art 177. It is considered an indication of the geographical name of origin country, city, region or locality in its territory, which has become known as a center of extraction, production or manufacture of a product or providing a service.

Article 178. It is considered designation of origin the geographical name of a country, city, region or locality in its territory, which designates a product or service whose qualities or characteristics are due exclusively or essentially to the geographical environment, including natural and human factors. "

It appears, therefore, that the DO is characterized by a particular territorial portion, properly defined and known and producing a property, which has influences unique geographical characteristics local cultural factors as well as intrinsic specific community involved in the production that particular well. It is understood therefore that the DO has unique characteristics and specific to a given location.

Most products with GIs are protected in the agricultural world, although registration is granted also for other services and products, including handicrafts. Several products with protected GI have a distinctive sign explaining the identification of geographical origin. Registration is granted to associations, unions, agricultural cooperatives, and corporations in general.

It must be remembered that Brazil is home to a huge plus geonímia indigenous communities Caiçaras, Quilombolas among others. Many of these have geônimos

desirable uniqueness, which today increases the importance of a geographical name, and also a potential record as IG.

3. A LIMITATION OF GEOGRAPHICAL INDICATIONS IN BRAZIL - TROUBLESHOOTING TAKEN

In the middle of the-2008, the IBGE found that some cartographic representations of geometric boundaries defining certain areas of geographical indications referred by holders of GIs and registered with the INPI contained some fundamental inconsistencies in the lease of the stroke in the territory to be protected, and overlaps with areas environmental protection, indigenous reserves and other protected areas by Brazilian law. Verification of the area enclosed and protected by Geographical Indication and areas protected by national legislation in force was made possible by the IBGE with the intersection of multiple layers of geospatial information INDE fact that this signaled the potential for research in the delimitation of geographical area for protection Geographical Indication involving minority communities in Brazil to social and economic inclusion of the citizens of these communities in Brazil.

Examples of such boundaries can be observed in the figures that follow:

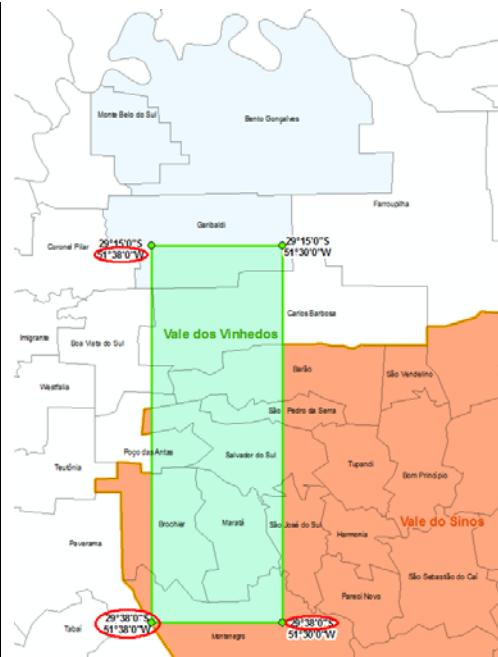
In this first delimitation of the area of the IG Vale dos Vinhedos, an error occurred, probably typing the coordinates that define the area, creating a polygon almost entirely outside the municipal limits of the document cited.	Delimitation of the area of the IG Vale dos Vinhedos, by the coordinates given in the descriptive memorial beside the municipal grid 1:1,000,000, IBGE 2007. Observe that the rectangle defined by the coordinates do not cover the three cities mentioned and overlaps the other IG (Vale do Sinos).
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Artigo 2º - DELIMITAÇÃO TERRITORIAL

A Região do **VALE DOS VINHEDOS** possui uma área total de 81,23Km², distribuída na sua maior parte no Município de Bento Gonçalves, mas também nos Municípios de Garibaldi e Monte Belo do Sul.

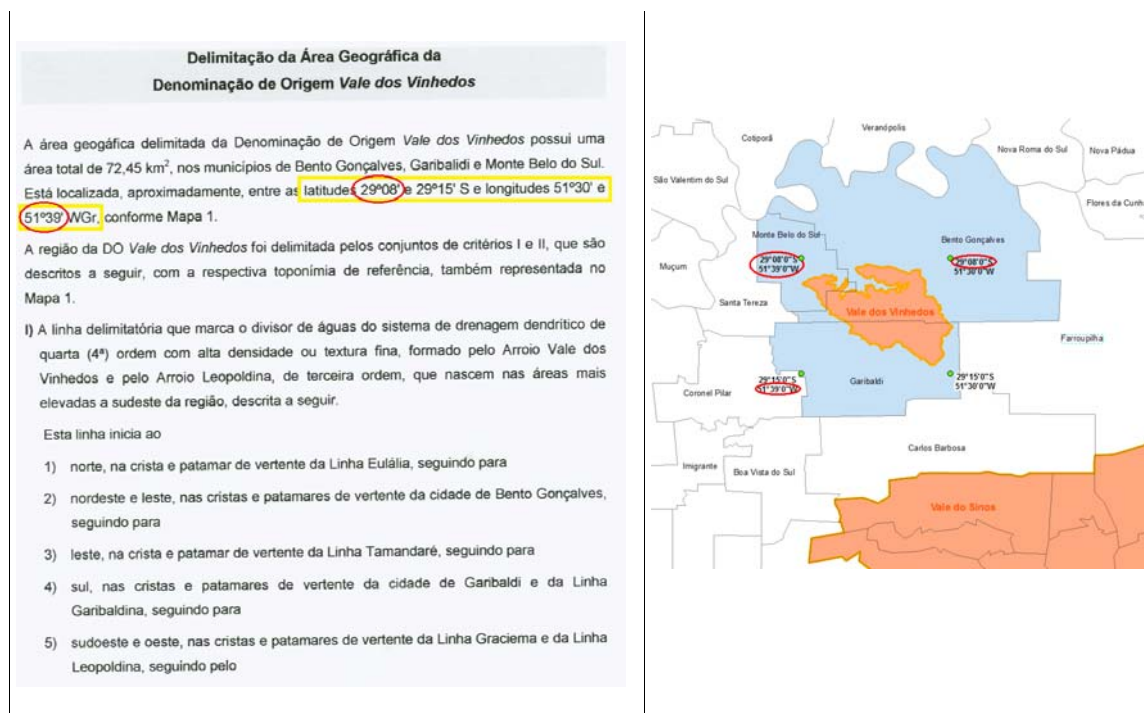
Considerando-se as coordenadas extremas, o **VALE DOS VINHEDOS** localiza-se entre os paralelos 29°38' e 29°15' e os meridianos 51°30' e 51°38' Oeste de Greenwich. Possui a forma aproximada de um triângulo isósceles, cujos vértices localizam-se a nordeste da cidade de Bento Gonçalves, a Leste da cidade de Monte Belo do Sul e ao Norte da cidade de Garibaldi.

endo a sede do Distrito como ponto central e usando os nomes das linhas ou cidades para designar os limites, o **VALE DOS VINHEDOS** tem os seguintes limites: a norte, as cristas e patamares de vertente da Zenith e da Eulália; a nordeste e leste, as cristas e patamares de vertente de Bento Gonçalves e de Amândarê; a sudeste, a crista e patamar de vertente da Garibaldi; ao Sul, a crista patamar de vertente da Graciema; a oeste e sudoeste, as cristas e patamares de vertente da Leopoldina e no extremo oeste o patamar da cidade de Monte Belo do Sul.



New delimitation of the area of the IG Vale do Sinos, with the correct coordinates.

Again using the municipal grid IBGE, was delimited by the coordinates of the new polygon that covers the IG Vale dos Vinhedos within the three counties named in the memorial, and also the correct delimitation of the area of the IG, as described in the memorial.



Thus it became imperative to establish a Technical Cooperation Agreement between the two institutions that aimed to technical cooperation, scientific, educational and cultural cooperation between the Participants, for the development and implementation of joint actions for standardization, support for spatial analysis, dissemination and strengthening of GIs and their inclusion as Decree Law No. 6.666/2008, the National Spatial Data Infrastructure in Brazil (INDE).

Among the various interests of the INPI in signing this partnership with IBGE, include: the promotion of regional development in the form of industrial clusters, Agricultural Poles and local production and promotion of technological protection through Geographical Indication, supporting the formation of capital, innovation and sustainable growth implemented the productive Development Policy - PDP, provide the necessary technical support to local production in the areas of leasing consistent geographical indication, and encourage the training of human resources inside and outside the institution in knowledge the importance of having consistent information on the INDE.

Among the various interests of the IBGE participate in the partnership include: ensuring consistency of quality geospatial information at INDE, acquire know-how to spread the knowledge of their expertise to partner institutions in different governmental institutions, disseminating knowledge of geospatial information in other sectors of society such as local clusters, which tend to grow in geometric progression from the dissemination of geographical indications to other productive

sectors in Brazil, as well as promoting the dissemination of the importance of INDE to local productive sectors of society.

4. CONSIDERATIONS

This partnership also provides a significant importance in the research potential of GI protection involving local knowledge associated with minority communities, providing support to minority communities in the protection of GIs, the inclusion of geospatial geometry of geographical indications as important layer of information territorial it would also ensure consistency of quality geospatial information at INDE, acquire know-how to spread the knowledge of their expertise to partner institutions in different governmental institutions, disseminating knowledge of geospatial information in other sectors of society such as local clusters, that tend to grow in geometric progression from the dissemination of geographical indications to other productive sectors in Brazil, as well as promoting the importance of disclosure to INDE local productive sectors of society.

The joint action INPI/ IBGE presents itself therefore as relevant initiative for the dissemination and promotion of the culture of intellectual property in the country, specifically with regard to the research and protection of GIs and their strategic importance between various actors involved in the theme, as small producers of local productive arrangements as the Maroons and indigenous communities who work with medicinal plants and the Caiçaras.

REFERENCES

BRASIL, INPI. Lei Nº 9.279 disponível
http://www.planalto.gov.br/ccivil_03/leis/L9279.htm acesso 05/14/2013

BRASIL, IBGE. Decreto-lei nº 6.666/2008 de 27/11/2008 que institui, no âmbito do Poder Executivo federal, a Infraestrutura Nacional de Dados Espaciais - INDE, e dá outras providências. Disponível em
http://www.concar.ibge.gov.br/arquivo/20@Decreto6666_27112008.pdf acesso em 14/04/2013.

BRASIL, INPI. Lei Nº 0.279 de 14/05/1996 que regula a proteção dos direitos relativos à propriedade industrial. Disponível em
http://www.planalto.gov.br/ccivil_03/leis/L9279.htm acesso em 14/04/2013.

BRASIL, INPI. Documento de pedido de registro da Indicação de Procedência Vale dos Vinhedos depositado no INPI. Cópia reprográfica simples.

BRASIL, INPI. Documento de pedido de registro da Indicação de Procedência Vale do Sinos depositado no INPI. Cópia reprográfica simples.

OMC. ADIPC- Acordo sobre Aspectos dos Direitos da Propriedade Intelectual relacionados ao Comércio. disponível em http://www.wto.org/english/docs_e/legal_e/legal_e.htm#TRIPs acesso em 14/04/2013.

OMPI. Convenção que estabelece a OMPI. Revisão de 28/09/1979. Disponível em http://www.wipo.int/treaties/en/convention/trtdocs_wo029.html acesso em